

HOUSE BILL NO. 306

INTRODUCED BY GALLIK, CLARK, DICKENSON, GALVIN-HALCRO, HARRIS, FACEY, FRANKLIN,
HAMILTON, JAYNE, JENT, EATON, GOLIE, GRINDE, GUTSCHE, HENRY, SESSO, COHENOUR,
JUNEAU, SMALL-EASTMAN, WINDHAM, WILSON, BERGREN, BRANAE, DRISCOLL, FUREY, JOPEK,
PARKER, WANZENRIED, WILSON, WISEMAN, HINER, LENHART, NOONAN, VILLA, WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF COMMERCE TO PROVIDE
AN ELECTRONIC DIRECTORY OF MONTANA PRODUCTS; PROVIDING RULEMAKING AND
CONTRACTING AUTHORITY; ALLOWING AN EXEMPTION OF PUBLIC EMPLOYEE CONDUCT
STANDARDS; AND AMENDING SECTION 2-2-121, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Electronic directory of Montana products. (1) (A) The department of
commerce shall provide an electronic directory on the internet or world wide web of Montana businesses that
market products qualifying as made in Montana or grown in Montana, as described in subsection (5).

**(B) THE DEPARTMENT MAY MAKE A DECISION ON THE APPROPRIATENESS OF LISTING A BUSINESS ON THE
ELECTRONIC DIRECTORY BASED UPON THE CONTENT OR USE OF THE PRODUCTS OFFERED BY THE BUSINESS.**

(2) (a) The electronic directory may be compiled from eligible businesses that have contacted the
department of commerce and that have agreed to be listed electronically on the internet or world wide web.
Agreement by a company also means that the company grants permission for inclusion on a mailing list pursuant
to 2-6-109(1).

(b) The department of commerce is not responsible for listing a company if that company has not
contacted the department, has not agreed to a listing pursuant to subsection (2), or does not qualify as having
products made in Montana or grown in Montana.

(3) The electronic directory may contain information allowing a potential customer to access directly a
business listed in the directory by telephone, mail, or electronic links if the business works with the department
of commerce to facilitate and maintain direct access.

(4) The department of commerce may not process orders for a business listed in the electronic directory
and is not responsible for handling customer questions or complaints on behalf of a business listed in the

1 electronic directory.

2 (5) For the purposes of this section, a product is considered made in Montana or grown in Montana if
3 the product has 50% or greater value-added within the state.

4 (6) For the purposes of this section, "value-added" means ~~that 50% of the raw materials and 50% of the~~
5 ~~labor must be added in this state when arriving at a wholesale price of a product~~ A FINISHED PRODUCT THAT HAS
6 BEEN CREATED, MADE, PRODUCED, OR ENHANCED IN MONTANA BY MONTANA RESIDENTS RESULTING IN A 50% OR
7 GREATER VALUE-ADDED PRODUCT.

8
9 **NEW SECTION. Section 2. Rules -- contract -- conduct of public officers and employees.** (1) The
10 department of commerce may adopt rules necessary for the creation, maintenance, and updating of the
11 electronic directory provided for in [section 1]. The rules may include requirements for the design of a website,
12 information that may be contained in the electronic directory, the format of the electronic directory, information
13 that may be provided to potential customers, and requirements for updating material contained in the electronic
14 directory.

15 (2) The department of commerce may contract with the department of administration or a private vendor
16 for the creation, maintenance, and updating of the electronic directory and website provided for in [section 1].

17 (3) Public officers or employees who outside of their work for a public agency are involved in the creation
18 of products that qualify for inclusion in the electronic directory provided for in [section 1] may list their products
19 in the electronic directory without being in violation of the provisions of 2-2-121.

20
21 **Section 3.** Section 2-2-121, MCA, is amended to read:

22 **"2-2-121. Rules of conduct for public officers and public employees.** (1) Proof of commission of
23 any act enumerated in subsection (2) is proof that the actor has breached a public duty.

24 (2) A public officer or a public employee may not:

25 (a) subject to subsection (6), use public time, facilities, equipment, supplies, personnel, or funds for the
26 officer's or employee's private business purposes;

27 (b) engage in a substantial financial transaction for the officer's or employee's private business purposes
28 with a person whom the officer or employee inspects or supervises in the course of official duties;

29 (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other
30 economic benefit from the officer's or employee's agency;

1 (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic
2 benefit from any agency;

3 (e) perform an official act directly and substantially affecting to its economic benefit a business or other
4 undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel,
5 consultant, representative, or agent; or

6 (f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with
7 a person whom the officer or employee regulates in the course of official duties without first giving written
8 notification to the officer's or employee's supervisor and department director.

9 (3) (a) A public officer or public employee may not use public time, facilities, equipment, supplies,
10 personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of
11 any person to public office, or the passage of a ballot issue unless the use is:

12 (i) authorized by law; or

13 (ii) properly incidental to another activity required or authorized by law, such as the function of an elected
14 public officer, the officer's staff, or the legislative staff in the normal course of duties.

15 (b) As used in this subsection (3), "properly incidental to another activity required or authorized by law"
16 does not include any activities related to solicitation of support for or opposition to the nomination or election of
17 a person to public office or political committees organized to support or oppose a candidate or candidates for
18 public office. With respect to ballot issues, properly incidental activities are restricted to the activities of a public
19 officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a
20 ballot issue on state or local government operations.

21 (c) This subsection (3) is not intended to restrict the right of a public officer or public employee to
22 express personal political views.

23 (4) A public officer or public employee may not participate in a proceeding when an organization, other
24 than an organization or association of local government officials, of which the public officer or public employee
25 is an officer or director is:

26 (a) involved in a proceeding before the employing agency that is within the scope of the public officer's
27 or public employee's job duties; or

28 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
29 employee represents the state or local government.

30 (5) A public officer or public employee may not engage in any activity, including lobbying, as defined

1 in 5-7-102, on behalf of an organization, other than an organization or association of local government officials,
2 of which the public officer or public employee is a member while performing the public officer's or public
3 employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from
4 performing charitable fundraising activities if approved by the public officer's or public employee's supervisor
5 or authorized by law.

6 (6) A listing by a public officer or a public employee in the electronic directory provided for in [section
7 1] of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section.
8 The public officer or public employee may not make arrangements for the listing in the electronic directory during
9 work hours.

10 ~~(6)(7)~~ A department head or a member of a quasi-judicial or rulemaking board may perform an official
11 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a
12 statute and if the person complies with the disclosure procedures under 2-2-131.

13 ~~(7)(8)~~ Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
14 unless the member is also a full-time public employee.

15 ~~(8)(9)~~ Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local
16 government from performing an official act when the member's participation is necessary to obtain a quorum
17 or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of
18 impropriety prior to performing the official act."

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20 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified
21 as an integral part of Title 30, and the provisions of Title 30 apply to [sections 1 and 2].

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